85-1212

Supreme Court, U.S.
FILED
DEC 21 1985
JOSEPH F. SPANIOL, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1986

STANLEY OLEN, Petitioner

v

CAROLE FIELDS PURDUE and
HARRIET ANCHOR, Respondent's

PETITIONER FOR WRIT OF CERTIORARI
TO UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Respectfully submitted,

Stanley Olen

Stanley Olen, Pro Se.
10528 Granada Drive
Sun City, Arizona 85373

Tel. (601) 974-9354

QUESTIONS PRESENTED FOR REVIEW

PETIONER WAS DENIED DUE PROCESS OF LAW HE WAS NOT PERMITTED TO STATE HIS CASE.

PETIONER'S COUNTERCLAIM AND CROSS_ CLAIM WERE DISMISSED WITHOUT A HEARING.

WAS GARNISHMENT OF PETIONER'S BANK ACCOUNT CORRECT ? SINCE THE STATE COURT AND FEDERAL COURT DISAGREE ON THIS MATTER.

WAS IT PROPER FOR THE COURT TO GRANT A LIS PENDES ON PETITIONER'S PROPERTY AND THREATEN HIM WITH SANCTIONS IF HE DID NOT SETTLE.

PETITION FOR WRIT OF CERTIORARI IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

The petitioner respectfully prays that a writ of certiorari be issued to review the judgment of the Maricopa County Superior Court, Phoenix Arizona No. C-453040 dated December 26, 1984 and Carnishment order dated Feb, 27, 1985 or two months after formal judgment was signed.

Appeals Court order No. 1 CA-CIV 8126 dated May 22, 1985.

Arizona Supreme Court order No. 18323-PR dated October 17, 1985

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JURISDICTION

On October 17, 1985 the Supreme Court in the State of Arizona, denied the petitioner's petition for review. The jurisdiction of this Court is invoked under Title 28 United States Code § 2101 (f).

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution

Amendment XIV The fourteenth amendment guarantees that no state shall deprive any person of property without due process of law.

First Amendment guarantees free speech.

STATEMENT OF THE CASE

On February 2, 1982 both mother and daughter together went to Attorney Mathis Becker, office in Youngtown Arizona to file a complaint. The three of them agreed to make the daughter Carole Fields Purdue the Plaintiff and her mother, Harriet Anchor and the petitioner defendants. After Attorney Becker filed the complaint, he turned the case over to Attorney Steve Schneider, office in Phoenix, Arizona. For most of the next two years Mr. Schneider was defending both the mother defendant and the daughter plaintiff. Only after two years of litigation and after the mother submitted a number of forged bank records, the mother was made a plaintiff with her daughter. At this time the petitioner was intimidated to

make a settlement. Mr. Schneider made amended comolaints, crosscomplaints, Lis Pendens with a copy hand delivered to petitioner's wife. The petitioner was threatened to make his wife a party defendant. Under these conditions and the misrepresentation of petitioner's attorney, the petitioner was under duress to make a settlement for twelve thousand five hundred dollars. The petitioner's attorney agreed that this amount would include his legal fee. Later he denied that he made this agreement. The transcripts will show that Mr. Schneider was in conflict of interest. Mr. Schneider's stationery was used to write the formal Superior Court judgment. There was very little resemblance between the transcript and the formal judgment.

No hearing was held on respondent Harriet Anchor's motion for dismissal of Petitioner's complaint. No mention of garnishment was made.

On the same hearing November 6, 1984., the Superior Court approved petitioner's attorney's motion to withdraw as counsel, that left petitioner without effective counsel and the Court would not permit pertitioner to state his case.

ARGUMENT

REASONS FOR GRANTING THE WRIT

Arizona Revised Statute Rule 8 (d) 13

Duress act or threat constitute duress if it is wrongful and places party entering into transaction in such fear as to preclude the exercise by him of free will and judgment. Dunbar v Dunbar 91967 102 Ariz. 352 429 P.2d.

Arizona Revised Statute 12-1571 to 12-1595

Which permits prejudgment garnishment without hearing violated the fundamental principle of due process.
Shreve (D.C 19720) 344 F. Supp 1136 affirmed 475 F. 2nd 754.

U.S. District Judge Alfredo Marquez declared Arizona's post-judgment garnishment law unconstitutional when funds sought are personal assets protected from debt collection by State and Federal Law.

The State Court and Federal Court are in conflict over the Garnishment Law. This Court could resolve this matter.

CONCLUSION

The petitioner respectfully requests that legal fee be denied to respondent's.

That petitioner's garnished funds be returned.

That this case be reset for trial.

For the foregoing reasons, petitioner respectfully requests that a a writ of certiorari be issued to review the judgment of the Superior Court of Arizona, Maricopa County, Phoenix, Ariz.

Respectfully submitted,

Stanley Olen

Stanley Olen, Pro Se
10528 Granada Drive
Sun City, Arizona 85373

PROOF OF SERVICE

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

STANLEY OLEN, after being duly sworn deposes and says that Pursuant to Rule 28 5 (c) of this Court he served the within motion for leave to petition for writ of certiorari to the court of appeals for the Ninth Circuit on counsel for the Respondent's by enclosing three copies thereof in an envelope, first class postage prepaid, addressed to:

Mark Hyatt Tynan, Esq.
210 East Morris Drive
Phoenix, Arizona 85012
(602) 266-9797
Attorney for Respondent's

One copy each to:

Clerk of the Superior Court
of Arizona, Maricopa County
201 West Jefferson Street
Phoenix, Arizona 85007

Arizona Supreme Court
Capitol Building
Phoenix, Arizona

To my knowledge depositing same in the United States Mails at Sun City, Arizona on 9th January 1986.

Stanley Olen

Stanley Olen,, Pro Se
10528 Granada Srive
Sun City, Arizona 85373

Subscribed and Sworn to before me this 9th day of January 1986

Mary Gilley

Notary Public in and for said County and State

My Commission Expires Oct. 24, 1988

APPENDIX A

GARISHMENT ORDER No. C-453040

Dated 2/25/85 Honorable Judge Armondo de Leon .

SUPERIOR COURT OF ARIZONA MARICOPA COUNTY

Carole Fields Purdue

v

Stanley Olen, et al

Mark Hyatt Tynan,
Attorney for Respondent

It is ordered approving and settling formal written Judgment against Garnishee signed this date and given to counsel for plaintiff for filing.

APPENDIX B

Part of proceedings held in court on November 6, 1984 QUOTE

The Court: Mr. Olen, you are here in Court. I want you to understand that you---you may sit down. Let me address you. I certainly don'twant to be dramatic but I guess I have to. When a case is set for trial and all parties are ready to proceed, we estimate that it costs this Court about a $1,000 a day to operate this function and the Court was available to youand you were ready to proceed. And as a consequence of the settlement that you arrived at which was documented in chambers and you agreed upon by you, this court is probably going to have no other recourse but to indicate that you are bound by the terms of uour settlement.

Now, if these people bring you back to Court on that settlement, you have to be aware of the fact that the Court if it feels that your pleadings are not in good faith or if you're doing things to delay the proceedings, under the new Amended Rule 11 (a) of the Rules of Civil Procedures will impose sanctions upon you. I would not be the least bit hesitant to give you notice of sanctions at such time as you make thowe pleadings. And, in fact, if y u gentlemen can arrange to have the case assigned to me, I would be happy to take it if he doesn't comply witn the terms of the settlement.

APPENDIX C

IN THE COURT OF APPEALS STATE OF ARIZONA
DIVISION ONE

CAROLE FIELDS PURDUE and HARRIET ANCHOR, Plaintiffs-Appellees, v. STANLEY OLEN, Defendant-Appellant.	1 CA-VIV 8126 DEPARTMENT C MARICOPA COUNTY SUPERIOR COURT No. C453040 ORDER

Appellee's motion to strike opening brief and motion to dismiss, the response and reply thereto were considered by the court, Presiding Judge Robert J. Corcoran and Judges William E. Eubank and Donald R. Froib participating. The court notes that the new opening brief filed on April 25, 1985, after this court's order of April 4, 1985, still fails to comply with Rule 13 of

the Arizona Rules of Civil Appellate. Procedure.

IT IS ORDERED granting appellee's motion to strike the opening brief.

IT IS FURTHER ORDERED dismissing this appeal.

DATED this 22nd day of May, 1985.

/s/ ROBERT J. CORCORAN
PRESIDING JUDGE

A true copy of the foregoing order was mailed this 22nd day of May 1985 to:

1 CA-CIV 8126

DEPARTMENT C

Maricopa County
Superior Court
No. C-453040

May 22, 1985

Mr. Michael E. Kelly
Tanner & Associates
3900 East Camelbank Road
Suite 102 South
Phoenix, Arizona 85012
Attorneys for Plaintiff-Appellee

Mr. Mark Hyatt Tynan
210 East Morris Drive
Phoenix, Arizona 85012
Attorney for Plaintiff-Appellee
Carole Fields Purdue

Mr. Joe M. Romley
1800 United Bank Building
33 North Central Avenue
Phoenix, Arizona 85012

Mr. Stanley Olen
10528 Granada Drive
Sun City, Arizona 85373
Defendant-Appellant

The Honorable Armando de Leon, Judge
Maricopa County Superior Court
Central Court Building
201 West Jefferson Street
Phoenix, Arizona 85003

GLEN D. CLARK, CLERK
By

Donna Willingham
Deputy Clerk

APPENDIX D

SUPREME COURT

STATE OF ARIZONA

1700 West Washington Street

Phoenix, Arizona 85007

October 17, 1985

RE: Carole Fields Purdue et ux vs.
Stanley Olen
Supreme Court No. 18323-PR
Court of Appeals No. 1 CA-CIV 8126
Maricopa County No. C-453040

Greetings:

The following action was taken by the Supreme Court of the State of Arizona on October 16, 1985, in regard to the above-references cause.

"ORDERED Petition for Review DENIED."

Recored returned to the Court of Appeals Division One, Phoenix, this 17th day of October, 1985.

DAVID R. COLE, Clerk

TO:
Mark Hyatt Tynan, Esq.
Stanley Olen
Glen D. Clark, Clerk, Court of Appeals, Division One.

mrk

APPENDIX E

STEVEN H. SCHNEIDER
Attorney at Law
1833 North Third Street
Phoenix, Arizona

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA, IN AND FOR THE COUNTY OF MARICOPA

CAROLE F. PURDUE. Plaintiff, vs. STANLEY OLEN and HARIETT ANCHOR, Defendants.	No. C-453040 JUDGMENT The Honorable Armando de Leon

This matter having been set for jury trial on Tuesday, September 18,1984 before the Honorable Armando de Leon, and the parties hereto having accepted said stipulated judgment,

IT IS ORDERED as follows:

1 Awarding judgment in favor of Plaintif, Carole F. Purdue, against Defendant, Stanley Olen, in the sum of TWELVE THOUSAND FIVE HUNDRED DOLLARS

($12,500.00), together with interest thereon at the legal rate of ten percent (10%) per annum until paid in full.

2. Awarding judgment in favor of Plaintiff, Carole F. Purdue, against Defendant, Harriet Anchor, in the sum of TWO THOUSAND DOLLARS ($2,000.00), together with interest theron at the legal rate of ten percent (10%) per annum until paid in full.

3. Dismissing Defendant Olen's Counterclaim against Plaintiff, Carole F Purdue. with prejudice.

4. Dismissing Defendant Olen's Counterclaim against Defendant Harriet Anchor with prejudice.

5. Each party to bear their respective fees and costs incurred herein.

DONE IN OPEN COURT this December 26, 1984 day of December, 1984

/s/ ARMANDO DE LEON
JUDGE OF THE SUPERIOR COURT